

§ 6.205

40 CFR Ch. I (7–1–11 Edition)

1507.3 to amend paragraph (a)(1) or paragraph (a)(2) of this section.

[72 FR 53662, Sept. 19, 2007, as amended at 74 FR 5993, Feb. 4, 2009]

§ 6.205 Environmental assessments.

(a) The Responsible Official must prepare an environmental assessment (EA) (see 40 CFR 1508.9) for a proposed action that is expected to result in environmental impacts and the significance of the impacts is not known. An EA is not required if the proposed action is categorically excluded, or if the Responsible Official has decided to prepare an EIS. (See 40 CFR 1501.3.)

(b) Types of actions that normally require the preparation of an EA include:

(1) The award of wastewater treatment construction grants under Title II of the Clean Water Act;

(2) EPA's issuance of new source NPDES permits under section 402 of the Clean Water Act;

(3) EPA actions involving renovations or new construction of facilities;

(4) Certain grants awarded for special projects authorized by Congress through the Agency's annual Appropriations Act; and

(5) Research and development projects, such as initial field demonstration of a new technology, field trials of a new product or new uses of an existing technology, alteration of a local habitat by physical or chemical means, or actions that may result in the release of radioactive, hazardous, or toxic substances, or biota.

(c) The Responsible Official, or other interested parties, may request changes to the list of actions that normally require the preparation of an EA (i.e., the addition, amendment, or deletion of a type of action).

(d) Consistent with 40 CFR 1508.9, an EA must provide sufficient information and analysis for determining whether to prepare an EIS or to issue a FONSI (see 40 CFR 1508.9(a)), and may include analyses needed for other environmental determinations. The EA must focus on resources that might be impacted and any environmental issues that are of public concern.

(e) An EA must include:

(1) A brief discussion of:

(i) The need for the proposed action;

(ii) The alternatives, including the no action alternative (which must be assessed even when the proposed action is specifically required by legislation or a court order);

(iii) The affected environment, including baseline conditions that may be impacted by the proposed action and alternatives;

(iv) The environmental impacts of the proposed action and alternatives, including any unresolved conflicts concerning alternative uses of available resources; and

(v) Other applicable environmental laws and executive orders.

(2) A listing or summary of any coordination or consultation undertaken with any federal agency, state or local government, or federally-recognized Indian tribe regarding compliance with applicable laws and executive orders;

(3) Identification and description of any mitigation measures considered, including any mitigation measures that must be adopted to ensure the action will not have significant impacts; and

(4) Incorporation of documents by reference, if appropriate, including, when available, the EID for the action.

§ 6.206 Findings of no significant impact.

(a) The Responsible Official may issue a finding of no significant impact (FONSI) (see 40 CFR 1508.13) only if the EA supports the finding that the proposed action will not have a significant effect on the human environment. If the EA does not support a FONSI, the Responsible Official must prepare an EIS and issue a ROD before taking action on the proposed action.

(b) Consistent with 40 CFR 1508.13, a FONSI must include:

(1) The EA, or in lieu of the EA, a summary of the supporting EA that includes a brief description of the proposed action and alternatives considered in the EA, environmental factors considered, and project impacts; and

(2) A brief description of the reasons why there are no significant impacts.

(c) In addition, the FONSI must include: